

**PART 1921—RULES OF PRACTICE IN  
ENFORCEMENT PROCEEDINGS  
UNDER SECTION 41 OF THE  
LONGSHOREMEN'S AND HARBOR  
WORKERS' COMPENSATION ACT**

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**AUTHORITY:** Sec. 41, Longshoremen's and  
Harbor Workers' Compensation Act (33  
U.S.C. 941); 5 U.S.C. 301.

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erwise noted. Redesignated at 28 FR 7909,  
Aug. 2, 1963, and further redesignated at 36  
FR 25232, Dec. 31, 1971.

**Subpart A—Applicability of Rules;  
Definitions**

**§ 1921.1 Applicability of rules.**

This part provides rules of practice  
for administrative hearings relating to  
the enforcement of section 41 of the  
Longshoremen's and Harbor Workers'  
Compensation Act and the safety regu-  
lations promulgated thereunder which

are published in parts 1915 and 1918 of  
this subtitle. This part applies only to  
proceedings held under section 41(b)(5)  
of the Act. It does not apply to any  
other administrative proceedings held  
under section 41 of the Act.

**§ 1921.2 Definitions.**

(a) *Act* means the Longshoremen's  
and Harbor Workers' Compensation  
Act.

(b) *Chief Hearing Examiner* means the  
Chief Hearing Examiner, United States  
Department of Labor, Washington DC  
20210.

(c) *Respondent* means the person or  
organization proceeded against.

(d) *Assistant Secretary* means the As-  
sistant Secretary for Occupational  
Safety and Health.

**Subpart B—Prehearing Procedures**

**§ 1921.3 Complaints.**

(a) *Issuance.* The Deputy Solicitor of  
Labor shall institute enforcement pro-  
ceedings by issuing a complaint and  
causing the complaint to be served  
upon the respondent.

(b) *Contents.* The complaint shall con-  
tain a clear and concise factual state-  
ment sufficient to inform the respond-  
ent with reasonable definiteness of the  
types of acts or practices alleged to  
have occurred and to violate section 41  
of the Act or the provisions of parts  
1915 and 1918 of this subtitle.

(c) *Amendments.* At any time prior to  
the close of the hearing, the complaint  
may be amended in the discretion of  
the hearing examiner and on such  
terms as he may approve.

(d) *Notice of hearing.* The hearing ex-  
aminer shall notify the parties of the  
time and place for a hearing within 10  
days after the service of the complaint.

**§ 1921.4 Answer.**

(a) *Filing and service.* Within 14 days  
after the service of the complaint, the  
respondent shall file an answer with  
the Chief Hearing Examiner. The an-  
swer shall be signed by the respondent  
or his attorney.

(b) *Contents; failure to file.* The answer  
shall:

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(1) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or

(2) State that the respondent admits all of the allegations of the complaint. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission of facts, the hearing examiner without further hearing shall prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision, and to file briefs in support of the exceptions.

## § 1921.5 Motions and requests.

Motions or requests shall be filed with the Chief Hearing Examiner, except that those made during the course of the hearing shall be filed with the hearing examiner or shall be stated orally and made part of the transcript. Each motion or request shall state the particular order, ruling, or action desired, and the grounds therefor. The hearing examiner is authorized to rule upon all motions or requests filed or made prior to the filing of his report.

## § 1921.6 Intervention.

At any time after the institution of proceedings and before the hearing examiner makes his decision, the hearing examiner may, upon petition in writing and for good cause shown, permit any interested person, including an employer, employee, labor or trade organization, or Federal or State agency, to intervene therein. The petition shall state with precision and particularity:

(a) The petitioner's relationship to the matters involved in the proceedings,

(b) The nature of any material he intends to present in evidence,

(c) The nature of any argument he intends to make, and

(d) Any other reason that he should be allowed to intervene.

## § 1921.7 Stipulations of compliance.

At any time prior to the issuance of a complaint in the proceeding, the Assistant Solicitor in charge of trial litigation may in his discretion, enter into stipulations with the prospective respondent, whereby the latter admits the material facts and agrees to discontinue the acts or practices which are intended to be set up as violative of the Act or parts 1915 and 1918 of this subtitle. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding in law or equity or under these regulations against such person.

## § 1921.8 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to the reception of evidence in any proceeding, the respondent may move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the hearing examiner, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) A waiver of any further procedural steps before the hearing examiner or the Director; and

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